

REMARKS

The present application was filed on July 11, 2003 with claims 1-21. Claims 1-21 were previously canceled without prejudice and replaced by new claims 22-41. Claims 25, 37 and 41 have since been canceled. Claims 22-24, 26-36 and 38-40 were pending prior to the present amendment. Claims 22, 29, 34 and 38 are the pending independent claims.

Claims 22-24, 26-36 and 38-40 currently stand rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 5,821,936 (hereinafter “Shaffer”) in view of Debsvec et al., “Design and Evaluation of an Adaptive Icon Toolbar,” User Modeling and User-Adapted Interaction, Vol. 6, No. 1, pp. 1-21, March 1996 (hereinafter “Debsvec”).

In formulating the present rejection, the Examiner concedes that Shaffer fails to disclose the similar limitations recited in independent claims 22, 34 and 38 directed to displaying the new menu structure prior to the completion of the replacement of the current menu structure with the new menu structure; and wherein user approval of the menu alteration comprises user approval of the new menu structure as displayed.

Rather, the Examiner argues that these limitations are taught by the Abstract of Debsvec, which states that “[a]t the user’s convenience, the adaptive bar offers suggestions for adding or removing command icons, based on the frequency and probability of specific commands. It also implements these changes once the user has agreed to them,” as well by FIG. 2 of Debsvec.

Applicant respectfully disagrees with the Examiner’s contention that the above-noted disclosure of Debsvec meets the limitations at issue. Specifically, Applicant respectfully submits that Debsvec merely displays a proposed change to the current adaptive bar, rather than displaying the new menu structure itself prior to the completion of the replacement. Moreover, the user approval taught by Debsvec is not an approval of a new menu structure as displayed, but rather is an approval of the proposed change to the current adaptive bar. See, e.g., Debsvec at Abstract (quoted above), and at page 4, third paragraph (When “a proposal for change is available, the user can review the proposal at any time by double-clicking on the bar background. This action calls up a single dialog box (Figure 2) that allows the user to confirm or reject the proposed change.”)

FIG. 2 of Debsvec shows the dialog window used for obtaining user approval of a proposed change. Specifically, the dialog window in FIG. 2 proposes replacement of an icon representing FormatFont with an icon representing ViewZoomWholePage. It should be noted

that the adaptive bar as shown in the upper portion of FIG. 2 does not contain the FormatFont icon, but rather includes the ViewZoomWholePage icon as the eighth icon. In other words, the adaptive bar displayed is that which existed prior to the implementation of the proposed change, rather than the new adaptive bar which would result from the implementation of the proposed change. Moreover, FIG. 2 indicates that user approval of the proposed change is obtained (e.g., by selecting the button labeled “YES” rather than the button labeled “NO”) while the existing adaptive bar is displayed, rather than the new adaptive bar.

In view of the above, Applicant respectfully submits that Devec fails to remedy the admitted deficiency of Shaffer so as to reach the limitations of claims 22, 34 and 38.

The Examiner concedes that Shaffer fails to disclose the limitation recited in independent claim 29 wherein calculating a new menu structure comprises calculating a step of calculating a difference between the new menu structure and the current menu structure. Instead, the Examiner relies on a portion of Devec, found on page 4, which the Examiner characterizes as indicating “that a difference between the current and suggested menus is calculated which prompts the system to indicate to the user that the new menu is available.”

Applicant respectfully disagrees and instead respectfully submits that the relied-upon portion of Devec merely describes the manner in which a user may be notified of a proposed change “[w]henver the system determines that a change to the bar may be appropriate.” This portion of Devec does not describe the manner in which the system determines that a change may be appropriate, much less the manner in which the change itself is determined. See also page 5, first paragraph (“[T]he system indicates that a suggestion is available and proposes adding an icon for that function. (Section 3.2 describes the specific criteria for this decision.)”)

Section 3.2 of Devec, found at pages 7 and 8 thereof, describes the decision-making algorithm used therein. The algorithm determines the priority of specific commands in order to determine which of a set of commands should be contained in a new menu structure. It does not calculate a difference between a new menu structure and a current menu structure; indeed, the current menu structure is not considered by the algorithm in calculating the new menu structure. See, e.g., the first through third paragraphs of page 8.

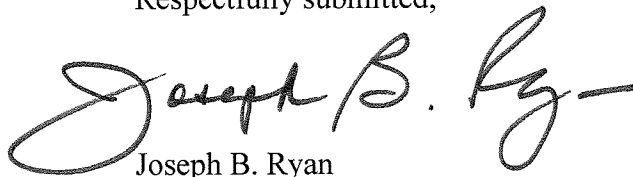
In view of the above, Applicant respectfully submits that Devec fails to remedy the admitted deficiency of Shaffer so as to reach the limitations of claim 29.

Notwithstanding the foregoing traversal, Applicant has amended claim 29 without prejudice. Applicant respectfully submits that this amendment is not being made for reasons relating to patentability, but rather is intended to expedite prosecution by clarifying the claimed subject matter. Applicant has amended claim 29 so as to incorporate the limitations of claims 30 and 31, as well as a further limitation wherein the threshold is a number of menu items greater than or equal to two.

Dependent claims 23, 24, 26-28, 32, 33, 35, 36, 39 and 40 are believed patentable at least by virtue of their dependency from their respective independent claims, which are believed patentable for the reasons identified above. Moreover, these claims are believed to define separately patentable subject matter.

In view of the foregoing, Applicant believes that the present application is in condition for allowance, and respectfully requests withdrawal of the aforementioned rejection.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph B. Ryan", with a long horizontal flourish extending to the right.

Date: July 31, 2008

Joseph B. Ryan
Attorney for Applicant
Reg. No. 37,922
Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560
(516) 759-7517